

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	CHAPTER 11
)	
W.R. GRACE & CO., <i>et al.</i> ,)	Case No. 01-01139 (JKF)
)	(Jointly Administered)
Debtors.)	
_____)	Re: Docket Nos. 26154, 26155 and 26236

ANDERSON MEMORIAL HOSPITAL'S
MOTION (1) TO EXTEND TIME FOR FILING
OBJECTIONS, TO EXTENT APPLICABLE; AND
(2) TO CLARIFY TIME FOR FILING NOTICE OF
APPEAL, TO EXTENT APPLICABLE, WITH RESPECT TO
MEMORANDUM OPINION AND RECOMMENDED FINDINGS
OF FACT, CONCLUSIONS OF LAW AND ORDER REGARDING
CONFIRMATION OF FIRST AMENDED PLAN OF REORGANIZATION

Anderson Memorial Hospital ("Anderson"), through undersigned counsel, hereby moves pursuant to Fed. R. Bankr. P. 9006(b) and 9033(c) to extend the time for filing objections to the Court's *Memorandum Opinion Regarding Objections to Confirmation of First Amended Joint Plan of Reorganization and Recommended Supplemental Findings of Fact and Conclusions of Law* ("Memorandum Opinion," D.I. 26154) and *Recommended Findings of Fact, Conclusions of Law and Order Regarding Confirmation of First Amended Joint Plan of Reorganization* ("Recommended Findings," D.I. 26155), to the extent such deadline is applicable, and to clarify that the time for filing a notice of appeal, to the extent applicable, is tolled by the Plan Proponents' filing of their Motion for Clarification of Confirmation Order. In support, Anderson states:

1. On January 31, 2011, the Court entered the Memorandum Opinion and Recommended Findings. The Memorandum Opinion and Recommended Findings recommend

that the District Court enter orders confirming the Plan Proponents' Plan and entering the requested § 524(g) injunction.

2. The Memorandum Opinion is titled as "Recommended Supplemental Findings of Fact and Conclusions of Law," and in its conclusion states "the court recommends that the District Court confirm Plan Proponents' Amended Joint Plan." The Recommended Findings likewise are titled as "Recommended Findings of Fact, Conclusions of Law and Order," the "adjudicatory" language states "THE BANKRUPTCY COURT HEREBY RECOMMENDS THAT THE DISTRICT COURT APPROVE THE RECOMMENDATION SO FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED ORDER HEREIN," and the conclusion states that "the court respectfully recommends that the United States District Court ... approve these Recommended Findings of Fact and Conclusions of Law" and "further recommend that the District Court confirm the Joint Plan and issue the § 524(g) injunction."

3. On February 3, 2011, District Court Judge Ronald Buckwalter *sua sponte* scheduled a status conference in this matter for February 16, 2011.

4. On February 10, 2011, the Plan Proponents filed a Motion for Clarification of Confirmation Order (D.I. 26236), in which the Plan Proponents – notwithstanding the language referenced above indicating that the Memorandum Opinion and Recommended Findings are recommendations to the District Court – seek for this Court to "clarify" that the Memorandum Opinion and Recommended Findings constitute an order of this Court and this Court's findings and conclusions, and to *sua sponte* strike any objections to proposed findings and conclusions filed under Fed.R.Bankr.P. 9033.

5. While it does not appear to Anderson Memorial Hospital that the Court has entered any final order from which an appeal could be taken pursuant to 28 U.S.C. § 158(a)(1),

Anderson is concerned that the Plan Proponents appear to be taking a contrary position. If the Memorandum Opinion and Recommended Findings are seen as the Plan Proponents contend, that would have implications as to whether parties must file a notice of appeal pursuant to Fed.R.Bankr.P. 8002, as distinguished from filing objections to recommended findings and conclusions, which would presumably be governed by Fed.R.Bankr.P. 9033. Under either rule, the deadline for the required action is 21 days, which would be February 14, 2011.

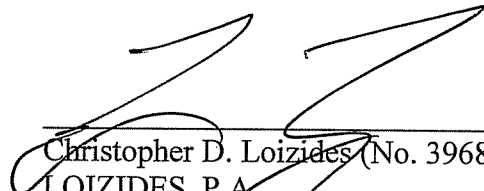
6. In light of the foregoing, and in order to promote judicial economy and reduce expense and uncertainty (including to give District Judge Buckwalter an opportunity to address these matters at the February 16, 2011 hearing), Anderson respectfully requests that the Court extend the time for filing objections to the proposed findings and conclusions under Fed.R.Bankr.P. 9033, to the extent applicable, by 14 days from February 14, 2011. Such an extension is authorized “for cause” pursuant to Fed.R.Bankr.P. 9033(c).

7. Moreover, Anderson also requests that the Court clarify and confirm that the Plan Proponents’ Motion for Clarification, which seeks to amend the Court’s Memorandum Opinion and Recommended Findings, constitutes a motion to amend or make additional findings which, under Fed. R. Bankr. P. 8002(b), tolls the time for filing a notice of appeal until such motion is disposed of, so that parties are not required to precipitously file notices of appeal while these matters are being clarified.

WHEREFORE, Anderson respectfully requests that the Court: (1) grant an extension of time to file objections to the Memorandum Opinion and Recommended Findings under Fed. R. Bankr. P. 9033, to the extent applicable, of 21 days from February 14, 2011; and (2) clarify that the Plan Proponents’ filing of their Motion for Clarification of Confirmation Order tolls the time to file a notice of appeal of the Memorandum Opinion and Recommended Findings under Fed.

R. Bankr. P. 8002, to the extent applicable, until such motion (and any other motion of a type specified in Rule 8002(b)) is disposed of.

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Christopher D. Loizides (No. 3968)
LOIZIDES, P.A.
1225 King Street, Suite 800
Wilmington, DE 19801
Telephone: (302) 654-0248
Facsimile: (302) 654-0728
Email: loizides@loizides.com

- and -

Daniel A. Speights
C. Alan Runyan
SPEIGHTS & RUNYAN
200 Jackson Avenue East
Post Office Box 685
Hampton, SC 29924
Telephone: (803) 943-4444
Facsimile: (803) 943-4599

- and -

John W. Kozyak
David L. Rosendorf
KOZYAK TROPIN & THROCKMORTON,
P.A.
2525 Ponce de Leon, 9th Floor
Coral Gables, FL 33134
Telephone: (305) 372-1800
Facsimile: (305) 372-3508

Counsel for Anderson Memorial Hospital